

BEFORE THE FEDERAL ELECTION COMMISSION

ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

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Complaint Receipt Date: January 14, 2016

Response Date: February 12, 2016

Respondents: Ron DeSantis for Florida,
and Timothy Koch, as treasurer
(collectively the "Committee")¹

Alleged Statutory/
Regulatory Violations:

52 U.S.C. § 30104(b)(2)
11 C.F.R. § 104.3(a)(3-4)

The Complaint alleges that the Committee violated the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations by failing to report contributions. Based on a November 18, 2015, article in POLITICO, the Complaint alleges that the Committee distributed a book written by DeSantis to individuals attending events. Compl. at 1. The Complaint claims that the books are items of value being used by the Committee to influence a federal election, and alleges that the Committee failed to include the value of the books in its disclosure reports as a contribution to the campaign. *Id.* The article, which is attached to the Complaint, indicates that DeSantis paid a company to print and publish his book, he ultimately bought the books himself, and he provided them to the Committee to give away at events. Compl., Attach at 1-2. The Committee responded by disputing the assumption that the value of the books must be treated as an in-kind contribution to the Committee, noting that the Complaint does not allege that copies were purchased "for the purpose of influencing any election for Federal office." Resp. at 1. The Committee

¹ Ron DeSantis currently represents Florida's 6th Congressional District in the U.S. House of Representatives. The Committee was established in February 2012 as DeSantis's principal campaign committee for his 2012 House campaign, and has existed continuously since then. On December 15, 2014, DeSantis filed a Statement of Candidacy (FEC Form 2) for the 2016 House election. On May 8, 2015, the Committee filed an amended Statement of Organization (FEC Form 1), changing the office sought from House to U.S. Senate (DeSantis also filed a Statement of Candidacy for U.S. Senate on May 9, 2015). The Committee filed an amended FEC Form 1 on June 22, 2016, changing the office sought from Senate back to House, and DeSantis filed an amended FEC Form 2 on June 22, 2016, redesignating the Committee as the principal campaign committee for his 2016 House campaign.

acknowledges that DeSantis bought the books and that the Committee did not originally report the value of the books as an in-kind contribution from DeSantis, but states that it did so on an amended report filed soon after it first became aware of the issue.² *Id.* at 2. Finally, the Committee asserts that the delay in reporting was minimal and did not result in any harm, and it requests that the Commission exercise its prosecutorial discretion and dismiss the matter. *Id.* at 3.³

The Act and Commission regulations require candidate committees to file reports of receipts and disbursements, including contributions received by the campaign. 52 U.S.C. § 30104(b)(2). *See also* 11 C.F.R. § 104.3(a)(3-4). The Committee's 2015 July and October Quarterly Reports did not report any contributions related to the books distributed at events. However, on December 9, 2015, the Committee filed an amended 2015 October Quarterly Report that reported a \$2,500 contribution from the candidate, with the memo line "in-kind: books." Therefore, the available information indicates that after the POLITICO article was published, but before the Complaint was filed, the Committee reported the value of the books as a contribution to the campaign.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the

² See Ron DeSantis for Florida Amended 2015 October Quarterly Report, filed December 9, 2015, at 601.

³ The Committee also asserts that DeSantis's contribution of the books to the Committee was neither impermissible nor excessive because DeSantis is permitted to make unlimited contributions to the Committee.

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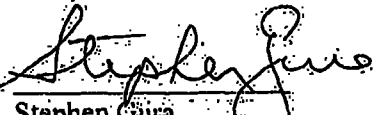
remedial action taken by the Committee, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.


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10.20.16
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